

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Billy Joe Roberts,)
Plaintiff,)
v.)
Lt. Jawarski Shelton, Sgt. Matthew A. Veal,)
and Lt. Tyrone Goggins,)
Defendants.)
)

Civil Action No. 6:12-cv-02724-JMC

OPINION AND ORDER

This matter is before the court upon review of the Magistrate Judge's Report and Recommendation ("Report"), filed on May 29, 2013, recommending that this case be dismissed for failure to prosecute. [Dkt. No. 59]. Plaintiff brought this action seeking relief pursuant to Title 42 U.S.C. §1983. On December 21, 2012, Defendant Goggins filed a Motion for Summary Judgment. [Dkt. No. 27]. On January 10, 2013, Defendants Shelton and Veal filed a Motion for Summary Judgment [Dkt. No. 40]. On December 27, 2012, and January 10, 2013, the Magistrate Judge entered an order pursuant to *Roseboro v. Garrison*, advising Plaintiff of the summary judgment procedure and the consequences if he failed to respond to the motions. [Dkt. Nos. 29, 41], *see Roseboro*, 528 F.2d 309 (4th Cir. 1975). Plaintiff responded in opposition to the summary judgment motions and filed motions requesting a hearing. [Dkt. Nos. 44, 51].

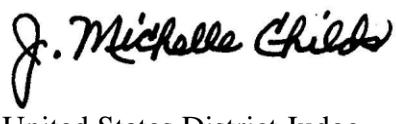
Plaintiff pled guilty in state court on April 11, 2013, was sentenced to time served and was released from the detention center where he had been held. The Magistrate Judge ordered Plaintiff to advise the court by May 24, 2013, of the status of the arrest and resulting charges that formed the basis of this action. [Dkt. No. 55]. The order was mailed but returned as undeliverable. [Dkt. No. 58]. Plaintiff was advised by court order that he was required to notify

the court in writing if his address changed. [Dkt. No. 8]. Plaintiff has made no contact with the court since April 5, 2013. [Dkt. No. 54]. Plaintiff did not file objections to the Magistrate Judge's Report and the time for doing so has expired.

The Magistrate Judge's Report is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985).

After a thorough review of the Report and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report. [Dkt. No. 59]. Plaintiff was given multiple opportunities to prosecute his action and has failed to do so. This matter is **DISMISSED** pursuant to Federal Rule of Civil Procedure 41. Defendants' Motions for Summary Judgment [Dkt. Nos. 27, 40] are denied as moot.

IT IS SO ORDERED.



J. Michelle Childs

United States District Judge

Greenville, South Carolina
August 1, 2013